Remarks

Claims 1, 5, 7, 8, 13-20, and 25-29 are pending.
Claims 2-4, 6, 9-12, and 21-24 are canceled.
Claims 1, 7, 13, 14, and 25 are currently amended.

Applicant respectfully asserts that the claims are in condition for allowance and such allowance is, respectfully requested.

Claims 1, 5, 7, 8, 13-20 and 25-29 have been rejected under 35 U.S.C. §112. Applicant has amended claims 1, 7, 13, 14 and 25 to overcome the rejections as set forth under 35 U.S.C. §112. Applicant respectfully asserts that the claims are now allowable over the rejection and respectfully requests withdraw of the rejection under 35 U.S.C. §112.

Applicant appreciates the Examiner's review of the present application and withdrawal of the rejection under 35 U.S.C. §102 relating to claims 5 and 17 in the previous Office Action.

The Examiner has rejected claims 1, 13-16, 18, 26, and 28 under 35 U.S.C. §102(b) as being anticipated by Marogna. Applicant respectfully asserts that the pending claims, as amended herein, are allowable over the Examiner's rejection.

Applicant notes that the Marogna reference includes devices which engage a ring nut coupled to a fixed grinding plate (8). Moreover, the grinder as disclosed in Marogna includes a shaft (5a) operating a movable grinder wheel (7) which drives the movable grinding wheel from below.

In contrast, the amended claims include a movable burr attached to a drive shaft and an auger which extends through the opposing burr. In this regard, beans can be fed through the one burr by the auger pulling beans towards the movable grinding burr. Adjustments can be accomplished as set forth in the claims.

With regard to the rejection under 35 U.S.C. §102, it is well settled, anticipation requires "identity of invention." *Glaverbel Societe Anonyme v. Northlake Manufacture Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a particular prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); Lindemann Maschinenfabrik GMBH, see *American Hoist and Derrick Company*, 221 USPQ 481, 485 (Fed. Cir. 1984). Furthermore, in a rejection under 35 U.S.C. §102(b) there must be no difference between what is claimed and what is disclosed in the applied reference. *In re Kalm,* 154 USPQ 10, 12 (CCPA 1967); *Scripps v. Genentech Inc.*, 18 USPQ2d 1001,1010 (Fed. Cir. 1991).

The Marogna reference does not include a movable burr attached to a drive shaft and an auger which extends through the opposing burr. Beans in Marogna cannot be fed through the one burr by the auger pulling beans towards the movable grinding burr. Moreover, the Brenholdt and Dodson-Edgars references do not show this apparatus construction or these limitations.

With the foregoing in mind, none of the cited references provide each and every element of the claimed invention and as such cannot support the rejection under 35 U.S.C. §102.

Claims 5, 7, 8, 17,19,20, 25, 27, and 29 have been rejected under 35 U.S.C. §103 based on Marogna either alone (claims 5, 7, 17, 19, 20, 27, 29) or in combination with either Brenholdt or Dodson-Edgars (claim 25). Applicant respectfully asserts that the claims, as amended herein, are allowable over the Examiner's rejection.

With regard to the rejections under 35 U.S.C. §103(a), it is respectfully submitted that Applicants' claims are patentable, as the Examiner has failed to establish a *prima facie* case of obviousness. According to Section 706.02 (j) of the MPEP the Examiner must meet three basic criteria to establish a *prima facie* case of obviousness:

(1) first, there must be some reasonable suggestion or motivation in the prior art to modify the reference or to combine the reference teachings;

(2) second, there must be reasonable expectation of success in obtaining the claimed invention based upon the references relied upon by the Examiner; and

(3) third, the prior art reference (or references when combined) must teach or suggest all of the claimed limitations.

MPEP Section 706.02(j) further requires that the teaching or suggestion to make the modification or reference combination and the expectation of success, must be found in the prior art, and may not be based upon the Applicants' disclosure.

The Marogna reference does not include each and every element as set forth in the arguments above with regard to Marogna with regarding to 35 U.S.C. §102. As a result, the Marogna reference fails to provide the necessary support under the third basic criteria noted above. Moreover, as also commented above, the other references as cited in the rejections do not satisfy the missing limitations.

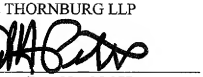
There is no reasonable suggestion or motivation to significantly alter any of these references to achieve the claimed invention. There is no reasonable expectation in any of these references of obtaining the claimed invention. All of the references rely upon a construction in which the driven burr is separate from the feed path.

With the foregoing in mind, Application respectfully asserts that the claims herein overcome and are allowable over the rejection under 35 U.S.C. §103. Applicant respectfully request that the Examiner withdraw the rejection under 35 U.S.C. §103 and pass the present claims to allowance.

If there is any issue remaining to be resolved, the Examiner is invited to contact the undersigned attorney by telephone so that resolution can be promptly affected.

It is believed that fees are not required for this Response, however it is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and any other fees or shortages in other fees, being charged, or any overpayment in such fees being credited, to the Deposit Account of Barnes & Thornburg LLP, Deposit Account No. 12-0913 acknowledging attorney docket no. (27726-100553).

Respectfully submitted,
BARNES & THORNBURG LLP



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